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THE  
TATEN ISLAND BRIDGE QUESTION,  
CONSIDERED FROM A  
PENNSYLVANIA POINT OF VIEW,

BY  
SAMUEL WAGNER,

COUNSELLOR AT LAW, PHILADELPHIA.



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# STATEN ISLAND BRIDGE QUESTION,

CONSIDERED FROM A

## PENNSYLVANIA POINT OF VIEW,

*By SAMUEL WAGNER, Counsellor at Law, Philadelphia.*

By the recent action of the Legislature of the State of New Jersey seeking to prevent the construction of a bridge by the Baltimore & Ohio Railroad Company across the narrow channel known as the Arthur Kill, to the State of New York, the question involved has become one of national importance. If there is to be any contest over the matter, it is likely to be one in which New Jersey will stand alone on one side, and all the other States of the Union on the other; for the harbor of New York is the common property of the nation, and every question affecting its capacity for usefulness is of vital importance to the whole country.

Reduced to simple terms, the question is this: Shall ten miles of the best water front of New York harbor be cut off and be kept isolated by a strip of water 600 feet wide, or, by bridging that strip, without any injury to navigation, shall these ten miles of shore be thoroughly utilized and made available for the commerce of the whole country? That any State in the Union should hold to the former of these propositions, knowing what New York harbor is to the rest of the country, would be strange enough, but that the proposition should be maintained by the deliberate action of the Legislature of the State whose boundary forms in part the

border of New York harbor, and whose territory must be crossed by rail to reach New York from all the other States in the Union except the six New England States, is fairly to "out-Herod Herod." It is doubtful whether, in the whole history of the country, there has ever been a declaration of the doctrine of State sovereignty at once more unphilosophical, more untrue to the principles of our national life, and more offensive to the instincts of the people, than the fiat of a single State that a railroad, whose lines extend in unbroken connection through ten States of the Union, shall stop at its boundary line, and shall not extend 600 feet farther over navigable waters to reach the harbor of the greatest commercial port of the country.

While, in a greater or less degree, all the States in the Union are concerned in this question, it affects most vitally the State of Pennsylvania, separated as it is from New York harbor only by the soil of New Jersey, and whose principal city, with a million of inhabitants, lies less than a hundred miles away. It might perhaps be assumed that Pennsylvania, having a very good harbor of its own, is quite independent of terminal facilities in the harbor of New York; but in point of fact exactly the opposite is true, the very proximity of the State to New York making it all the more dependent upon it in all matters relating to commerce. There was a time when Philadelphia was supreme among our cities in commercial importance, but that was in the days when there were no railroads, and then the good people of Philadelphia went down to the wharf to look admiringly on the ships of Stephen Girard, the largest of which was little more than 500 tons burden. When the railroads came, the State of Pennsylvania found that its strength lay, not in commerce, but in mining and manufactures, and the immense development of its natural wealth in coal, iron, and timber, together with the enormous growth of its manufactures, has placed it in a position in which it needs the best, the cheapest, and the most convenient commercial facilities the country can afford. These are to be found now only in New York, for while Pennsylvania was developing her strength in mines and manufactures, New York was building up her supremacy in commerce, until it has become, beyond all other cities, the market, the depot, and the shipping point, both for export and import, of the whole country. The harbor of New York is in the fullest sense the harbor of the

whole country. "Here," as has been well said, "all the nerves and arteries of the body politic converge. Here are the vital pulsations of commerce and national energy." This present position of New York as the commercial metropolis of the country has been the result of the natural law of commerce, seeking to seize upon and utilize that which is best for the purpose, just as the growth of Pennsylvania and the other States has been the result of the natural law of their particular industries. In these matters there are no State lines; the property of one is the property of all, and each gives what others want, and takes what others have to give. Wise men are content to recognize and encourage the operation of these natural laws, and do not seek to hinder them by artificial systems, based upon narrow views of local interests, and in defiance of the unanswerable logic of events.

If there is any one subject on which all the people of the country think alike, and if there is any one recognized right of which they are more jealous than another, it is that there shall be the fullest, freest, quickest, and cheapest communication between different parts of the country. The framers of the Constitution recognized this, and the whole prosperity of the country is the result of the people's insistence upon this right. It is the recognized law of the land, as clearly as if written in the Statute Books by Act of Congress, and that it has not been so written is simply because it is a constitutional right, vitally essential to the national welfare, and, so long as Congress does not legislate on the subject, it thereby, in the language of the Supreme Court, "indicates its will that commerce between the States shall be free and untrammelled." For any one State, therefore, to say that railroads may come into its territory on one side but shall not go out of it on the other side, is, in this day of free railroading, nothing more nor less than an Act of "Nullification," and is, in effect, to repeat today the words uttered more than fifty years ago, and which now sound so strangely to our ears, that "so far from the Constitution being the work of the American people collectively, no such political body, either now or ever, did exist." But we have advanced somewhat during these past fifty years, and the material progress we have made has been by the adoption of a very different view of our Constitution than is contained in the words just quoted. So late as the 18th of January of the present year, as if

to warn his own State of New Jersey against the hasty and ill-advised action which afterwards culminated in the resolution of its Legislature on the 3d of February, Mr. Justice Bradley, in delivering the opinion of the Supreme Court of the United States, in the case of *Walling vs. The State of Michigan*, said: "We have so often held that the power given to Congress to regulate commerce with foreign nations, among the several States, and with the Indian tribes, is exclusive in all matters which require or only admit of general and uniform rules, and especially as regards any impediment and restriction upon such commerce, that we deem it necessary merely to refer to our previous decisions on the subject. We have repeatedly held that so long as Congress does not pass any law to regulate commerce among the several States, it thereby indicates its will that such commerce shall be free and untrammelled, and that any regulation on the subject by the States, except in matters of local concern only, is repugnant to such freedom." This recent utterance of the Supreme Court, and the language of the same Court, by the same Judge, which will be found quoted in another connection at a later point in this brief, will certainly be sufficient to show that the people of all the States of this country are entitled to free and unrestricted communication to every portion of the Union, and the only limitation upon this national right is that the mode of such communication shall not interfere with the national interests. This being so, the present question before Congress reduces itself to the very simple one, whether the proposed bridge will interfere with the navigation on the Arthur Kill, and if it should in any way interfere with it, whether such interference will be of such nature and extent as to more than counterbalance the advantages of the opening to the commerce of the whole country, and of the whole world, of ten miles of the best water front in the greatest commercial port in the Union. The right of the Baltimore & Ohio Railroad Company to extend its road across the State of Delaware into Pennsylvania, across that State into New Jersey, and across New Jersey into the State of New York, is a right for which no legislation by Congress is required, unless one or more of these States should interpose an obstacle to its construction; but the right to build the bridge is dependent simply upon the question whether Congress, in the exercise of its paramount authority, shall

be satisfied that the bridging of the 600 feet of water lying between New Jersey and New York will, in view of the results likely to follow from it, work advantage to the commercial interests of the country. Whatever the exclusive claims of the State of New Jersey may be, they do not concern the question now before Congress, for that question is a national one, and will be dealt with on the broad ground of the nation's needs and the nation's rights.

If such power can be exercised by the State of New Jersey as is claimed in the Resolutions of the 3d of February, no State in the Union would feel it more keenly than Pennsylvania. Suppose the situation to be reversed, and the fiat of New Jersey to be applied to a railroad, with branches penetrating many States, coming from New York harbor across New Jersey, and over the Delaware into Pennsylvania. Is it likely that the people of Pennsylvania would tolerate the orders of New Jersey that the railroad should go as far as the eastern shore of the Delaware, but should *stop* there? We can imagine New Jersey's learned advocate of this new doctrine of State rights saying in such a case, as he has recently said to the people of Maryland and Pennsylvania: "The question is not whether your railroad is a great corporation, nor whether we should drive you away from us. We want you here. We wish you to cross the State, and seek a way to the great city of Philadelphia. But we like you so well that we wish you to *stop here*. If you have warehouses to build we wish you to build them on *our* soil." Is it likely that such language would be considered as anything better than frivolous? Certainly, therefore, it is safe to say that a great and overwhelming reason why the State of Pennsylvania should earnestly urge the passage of the pending Bill in Congress, is that this reckless sword-flourishing of the New Jersey Legislature—if it is to be recognized as anything more than a flourish—will cut to the westward as well as to the eastward, and at any moment the State of Pennsylvania may find itself in precisely the same position in which the States of Maryland and New York now find themselves. Or, suppose, in the application of the *lex talionis*, Pennsylvania should adopt similar legislation, and the people of New Jersey should in the future wish to have some great trunk line, with its many branches from the West, come into their State, to bring crude materials for her factories, and to carry back



her manufactured products, and Pennsylvania should say to her, "You may build your road across our territory, but when you get to the western shore of the Delaware you must *stop* there. We wish you to cross the State of Pennsylvania, and seek a way to supply your great factories in New Jersey and to distribute their products, but we like you so well that we wish you to stop *here* on Pennsylvania soil, and as you have warehouses to build, that is the soil on which we wish you to build them." Certainly it makes a good deal of difference whose ox is gored.

The history of railroads in Pennsylvania, and the present situation of railroad interests there, have a very important bearing upon this question. There is probably no State in the Union whose numerous and diversified interests more urgently need for their healthful development cheap transportation by rail, and easy access to New York harbor, than the State of Pennsylvania; and yet, ever since a railroad track has crossed the Alleghenies, the whole traffic by rail from the western part of the State to its seaboard has been controlled exclusively by a single corporation. Gathering in by many branches the traffic of the far West, this corporation, growing rich and powerful by the profits of monopoly, found, as all Trunk lines with Western connections have found, that it needed access to New York harbor, and it acquired control by lease of the only lines leading from its terminus at Philadelphia to New York—lines, it is well to note, which had always enjoyed by legislative protection as complete a monopoly of railroad traffic across New Jersey as their new lessor had across Pennsylvania. Down to the present time, this same single corporation still controls every other outlet by rail from Philadelphia, with the single exception of the road leading to the Anthracite Coal Region and its leased lines leading to New York. And even this one wee lamb of Pennsylvania it covets, and seeks to control, through a syndicate of capitalists, whose high moral purpose is to put an end to railroad wars by bringing it to pass that the lion and the lamb shall lie down together, and that we shall have peace. If the efforts of this philanthropic syndicate prove successful, we may have peace; but, as has been well suggested recently in a Philadelphia Journal, it will be the peace of the lion in the fable, who, presumably having a good digestion, doubtless felt at perfect peace with himself and the rest of the world *after he had eaten the lamb*.

It is important to note in this connection, that in 1873 the Legislature of New Jersey passed a General Railroad Law, by the overwhelming demand of the people of that State that they should be set free from the shackles of railroad monopoly; and in 1875, by an amendment to their Constitution, forbade special laws granting to any corporation the right to lay down railroad tracks. Then we find the people of New Jersey, thoroughly aroused, giving expression to their thoughts, through the public press, in such words as these: "Our little territory here is a bridge all must cross. Through our narrow gateway the traffic of the West must come, and our sure policy is to place as light a tariff as possible upon a commerce so vast. Our circumstances are peculiar. New Jersey is the custodian of a continent. A narrow territory, she lies wedged in between States, rivers, and mountain ranges, so that she must be crossed if the man of the mountain seeks the man of the sea, or the man of the sea should seek the prairie. The broader policy of the State is evident. It should make itself more and more a thoroughfare, give every liberty to cross it, and open wide its roadways and waterways. It is our policy to open gates, to permit as many roads as men care to construct, as much competition as men care to afford, and *keep the continental tide ebbing and flowing across our borders.*" These are words of wisdom and of true patriotism, but what do we see now? Alas! we see the sorry spectacle of the Legislature of New Jersey in eager haste to pass a bill, introduced by an officer of the Pennsylvania Railroad, to *amend the general railroad law of the State* in such manner as to make it seem impossible, and for the avowed purpose of trying to make it impossible, for the Baltimore & Ohio Railroad Company to enter the port of New York without getting the consent of the Legislature of New Jersey, by "solemn enactment," or of the Pennsylvania Railroad, or of the syndicate behind it. If the *people* of New Jersey are willing to submit to this, it is their own affair; but, while it is a fact that prisoners have been known to reach that morbid condition in which they are willing to hug their chains, it will be a unique circumstance in history that the people of a free State should be willing to come back to their former gaolers and deliberate'y resume their chains, after having enjoyed more than ten years of freedom.

the two sides of the river, amounts to the interest on nearly 15 million dollars every year. All these expenses, of course, add to the price of the goods handled.

It is, therefore, submitted, with great confidence, that action by Congress authorizing the construction of the bridge across the Arthur Kill will certainly result in great and far-reaching benefit to the commerce of the whole country. It will benefit the country's commerce with foreign nations, because, by supplying additional facilities for receipt shipment and storage at a single point, it will diminish the cost of all imported goods, and increase the profits on all our products shipped abroad. It will benefit commerce between the States, because it will diminish the cost to the people of all those products of our soil, our mines, and our varied manufactures, of which New York is the market. It will benefit the commerce both with foreign countries and between the States, because it will put an end to railroad monopoly in the approaches to our seaboard, and secure in its place that healthy competition in railroad transportation which is essential to the growth and successful development of the great and varied industries of our country. Among these industries none are more important than those of the State of Pennsylvania, and every citizen of that State who is loyal to her interests should urge upon his representatives in Congress the importance of favorable action upon the pending Bill.